



**SENATE SUBSTITUTE AMENDMENT 1,
TO SENATE BILL 477**

February 16, 2016 - Offered by Senators BEWLEY, MILLER, VINEHOUT, RINGHAND, C. LARSON, L. TAYLOR, CARPENTER, WIRCH, HANSEN, LASSA, SHILLING, RISSER and ERPENBACH.

1 **AN ACT** *to repeal* 59.692 (1) (e), 59.692 (1d), 59.692 (1f), 59.692 (1k) and 59.692
2 (5m); *to renumber* 59.692 (1c); *to amend* 59.692 (1) (bn), 59.692 (4) (b), 61.353
3 (3) (intro.) and 62.233 (3) (intro.); *to repeal and recreate* 59.692 (2m) and
4 281.31 (2m); and *to create* 59.692 (1t), 61.353 (3) (cm), 61.353 (3) (dm), 62.233
5 (3) (cm) and 62.233 (3) (dm) of the statutes; **relating to:** standards and
6 ordinances regulating shoreland zoning.

Analysis by the Legislative Reference Bureau

This substitute amendment eliminates the changes to the laws regulating shoreland zoning that were made under the 2015-17 biennial budget act, 2015 Wisconsin Act 55 (Act 55).

Current law requires a county to enact shoreland zoning ordinances for all shorelands in its unincorporated area and requires those ordinances to meet shoreland zoning standards established by the Department of Natural Resources (DNR) by rule. Current law generally defines a shoreland to be an area within a specified distance from the edge of a navigable water.

Act 55 made various changes to the laws regulating shoreland zoning including the following:

1. Prohibiting a county shoreland zoning ordinance from regulating a matter more restrictively than the matter is regulated by a shoreland zoning standard promulgated by DNR.

2. Prohibiting a shoreland zoning ordinance from requiring a person to establish a vegetative buffer zone on previously developed land or expand an existing buffer zone.

3. Requiring a shoreland zoning ordinance to allow a vegetative buffer zone to contain a viewing corridor of at least 35 feet wide for every 100 feet of shoreline frontage and to allow the corridor to run contiguously for the entire maximum allowable width.

4. Prohibiting DNR from establishing shoreland zoning standards and prohibiting counties from enacting shoreland zoning ordinances that regulate certain outdoor lighting, that regulate certain construction activities with respect to nonconforming structures, and that impose certain standards for impervious surfaces.

5. Allowing certain maintenance and repair of nonconforming structures in shorelands that are accessory structures such as garages, sheds, sidewalks, and patios.

6. Generally requiring city and village shoreland zoning ordinances that apply to certain shorelands that were annexed or incorporated by the city or village to be consistent with the requirements and limitations applicable to county shoreland zoning ordinances.

7. Prohibits DNR from appealing a decision of a county to grant or deny a variance to a law regulating county shoreland zoning.

This substitute amendment eliminates the changes to the law made by Act 55 so that the law is consistent with pre-Act 55 law.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 59.692 (1) (bn) of the statutes, as affected by 2015 Wisconsin Act
2 55, is amended to read:

3 59.692 (1) (bn) “Shoreland setback area” means an area in a shoreland that is
4 within a certain distance of the ordinary high-water mark in which the construction
5 or placement of buildings or structures has been limited or prohibited under an
6 ordinance enacted under this section.

7 **SECTION 2.** 59.692 (1) (e) of the statutes, as created by 2015 Wisconsin Act 55,
8 is repealed.

1 **SECTION 3.** 59.692 (1c) of the statutes, as affected by 2015 Wisconsin Act 55, is
2 renumbered 59.692 (1m).

3 **SECTION 4.** 59.692 (1d) of the statutes, as created by 2015 Wisconsin Act 55, is
4 repealed.

5 **SECTION 5.** 59.692 (1f) of the statutes, as created by 2015 Wisconsin Act 55, is
6 repealed.

7 **SECTION 6.** 59.692 (1k) of the statutes, as created by 2015 Wisconsin Act 55, is
8 repealed.

9 **SECTION 7.** 59.692 (1t) of the statutes is created to read:

10 59.692 (1t) (a) Restrictions that are applicable to damaged or destroyed
11 nonconforming structures and that are contained in an ordinance enacted under this
12 section may not prohibit the restoration of a nonconforming structure if the structure
13 will be restored to the size, subject to par. (b), location and use that it had
14 immediately before the damage or destruction occurred or impose any limits on the
15 costs of the repair, reconstruction or improvement if all of the following apply:

16 1. The nonconforming structure was damaged or destroyed after October 14,
17 1997.

18 2. The damage or destruction was caused by violent wind, vandalism, fire,
19 flood, ice, snow, mold, or infestation.

20 (b) An ordinance enacted under this section to which par. (a) applies shall allow
21 for the size of a structure to be larger than the size it was immediately before the
22 damage or destruction if necessary for the structure to comply with applicable state
23 or federal requirements.

24 **SECTION 8.** 59.692 (2m) of the statutes, as affected by 2015 Wisconsin Act 55,
25 is repealed and recreated to read:

1 59.692 (2m) (a) In this subsection:

2 1. “Development regulations” means the part of a shoreland zoning ordinance
3 enacted under this section that applies to elements including setback, height, lot
4 coverage, and side yard.

5 2. “Nonconforming structure” means a dwelling or other building that existed
6 lawfully before the current zoning ordinance was enacted or amended, but that does
7 not conform with one or more of the development regulations in the current
8 shoreland zoning ordinance.

9 (b) A county may not enact, and a county, city, or village may not enforce, a
10 provision in a county shoreland zoning ordinance that does any of the following:

11 1. Regulates the location, maintenance, expansion, replacement, repair, or
12 relocation of a nonconforming structure if that provision is more restrictive than the
13 shoreland zoning standards for nonconforming structures promulgated by the
14 department under this section.

15 2. Regulates the construction of a structure or building on a substandard lot
16 if that provision is more restrictive than the shoreland zoning standards for
17 substandard lots promulgated by the department under this section.

18 **SECTION 9.** 59.692 (4) (b) of the statutes, as affected by 2015 Wisconsin Act 55,
19 is amended to read:

20 59.692 (4) (b) Variances and appeals regarding shorelands within a county are
21 for the board of adjustment for that county under s. 59.694, and the procedures of
22 that section apply. ~~Notwithstanding s. 59.694 (4), the department may not appeal~~
23 ~~a decision of the county to grant or deny a variance under this section but may, upon~~
24 ~~the request of a county board of adjustment, issue an opinion on whether a variance~~
25 ~~should be granted or denied.~~

1 **SECTION 10.** 59.692 (5m) of the statutes, as created by 2015 Wisconsin Act 55,
2 is repealed.

3 **SECTION 11.** 61.353 (3) (intro.) of the statutes, as affected by 2015 Wisconsin
4 Act 55, is amended to read:

5 61.353 (3) (intro.) A village ordinance enacted under this section shall accord
6 and be consistent with the requirements and limitations under s. 59.692 (1d), (1f),
7 and (1k) and shall include at least all of the following provisions:

8 **SECTION 12.** 61.353 (3) (cm) of the statutes is created to read:

9 61.353 (3) (cm) 1. A provision requiring a person who owns shoreland property
10 that contains vegetation to maintain that vegetation in a vegetative buffer zone
11 along the entire shoreline of the property and extending 35 feet inland from the
12 ordinary high-water mark of the navigable water, except as provided in subd. 2.

13 2. If the vegetation in a vegetative buffer zone contains invasive species or dead
14 or diseased vegetation, the owner of the shoreland property may remove the
15 vegetation, except that if the owner removes all of the vegetation in the vegetative
16 buffer zone, the owner shall establish a vegetative buffer zone with new vegetation.

17 **SECTION 13.** 61.353 (3) (dm) of the statutes is created to read:

18 61.353 (3) (dm) A provision allowing a person who is required to maintain or
19 establish a vegetative buffer zone under par. (cm) to remove all of the vegetation in
20 a part of that zone in order to establish a viewing or access corridor that is no greater
21 than 30 feet wide for every 100 feet of shoreline frontage and that extends no more
22 than 35 feet inland from the ordinary high-water mark.

23 **SECTION 14.** 62.233 (3) (intro.) of the statutes, as affected by 2015 Wisconsin
24 Act 55, is amended to read:

1 62.233 (3) (intro.) A city ordinance enacted under this section shall ~~accord and~~
2 ~~be consistent with the requirements and limitations under s. 59.692 (1d), (1f), and~~
3 ~~(1k) and shall~~ include at least all of the following provisions:

4 **SECTION 15.** 62.233 (3) (cm) of the statutes is created to read:

5 62.233 (3) (cm) 1. A provision requiring a person who owns shoreland property
6 that contains vegetation to maintain that vegetation in a vegetative buffer zone
7 along the entire shoreline of the property and extending 35 feet inland from the
8 ordinary high-water mark of the navigable water, except as provided in subd. 2.

9 2. If the vegetation in a vegetative buffer zone contains invasive species or dead
10 or diseased vegetation, the owner of the shoreland property may remove the
11 vegetation, except that if the owner removes all of the vegetation in the vegetative
12 buffer zone, the owner shall establish a vegetative buffer zone with new vegetation.

13 **SECTION 16.** 62.233 (3) (dm) of the statutes is created to read:

14 62.233 (3) (dm) A provision allowing a person who is required to maintain or
15 establish a vegetative buffer zone under par. (cm) to remove all of the vegetation in
16 a part of that zone in order to establish a viewing or access corridor that is no greater
17 than 30 feet wide for every 100 feet of shoreline frontage and that extends no more
18 than 35 feet inland from the ordinary high-water mark.

19 **SECTION 17.** 281.31 (2m) of the statutes, as affected by 2015 Wisconsin Act 55,
20 is repealed and recreated to read:

21 281.31 (2m) Notwithstanding any other provision of law or administrative
22 rule, a shoreland zoning ordinance required under s. 59.692, a construction site
23 erosion control and storm water management zoning ordinance authorized under s.
24 59.693, 60.627, 61.354 or 62.234 or a wetland zoning ordinance required under s.

